IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2094 of 2003
with
Special Civil Application No.6794 of 2003
with
Civil Application Nos. 3058 and 3398 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MAHESHKUMAR K PATEL

Versus

SABARKANTHA DIST. CENTRAL CO-OPERATIVE BANK LTD.

Appearance:
MR JV JAPEE for Petitioner Nos. 1-3
MR HARIN P RAVAL for Respondent No. 1
RULE SERVED BY DS for Respondent No. 1-4
Mr.Kogje, Assistant GOVERNMENT PLEADER,
for Respondent No. 2-4
MR SHITAL R PATEL for Respondent No. 5-73

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 18/06/2003

ORAL JUDGEMENT

By filing these petitions, the petitioners have challenged the action of the Bank in regularising appointment of certain employees by making averment to the effect that such appointments are illegal and are made by way of favouritism. During the course of the hearing of these Special Civil Applications, it is pointed out to the Court that in Application (BIR) Nos.4 of 2002 to 72 of 2002, the Labour Court, Himatnagar has passed an Award, for regularising the services of the respondent-employees, who have been joined subsequently by way of Civil Application.

It is not in dispute that the order of the Labour Court is challenged by the Bank by way of Appeal (IC) No.38 of 2003. It is also not in dispute that the respondent-Bank has already moved an application for interim order for the purpose of staying the order of the Labour Court. Mr.Harin Raval, who is appearing for the Bank, has stated that the appellate court has fixed the hearing of interim relief. Copy of the summons is also placed on record by Mr.Raval, wherein it is stated that the matter is kept for hearing on 20th June, 2003.

Considering the aforesaid aspect of the matter, Mr.Japee as well as Mr.Yagnik, learned Advocates for the petitioners in the respective petitions, state that the petitioners would like to prefer an application before the Industrial Tribunal for impleading them as party-respondents in the appeal which is filed by the Bank, instead of asking this Court to adjudicate the issue involved in these petitions. Even otherwise, since the entire issue is at large before the Appellate Court, it is also not necessary to examine the controversy raised in these petitions at the instance of the present petitioners. Mr.Raval, who is appearing for the Bank, as well as Mr.Shital Patel, who is appearing for the contesting employees, state that they have no objection if the present petitioners are joined as party respondents in the appeal filed by the Bank, which is pending before the Tribunal.

In view of the aforesaid consensus prevailing between the parties, it is not necessary to examine even the question whether the petitions against the respondent-Bank is maintainable or not. The said question is not required to be adjudicated and the matters are disposed of in view of the consensus

prevailing between the parties by passing the following order :-

(1) The petitioners of the present Special Civil Applications are permitted to apply before the Tribunal to be impleaded as party-respondents in the Appeal, which is filed by the Bank. If any such application is preferred, the Tribunal shall allow them to be joined as party-respondents;

(2) The Tribunal shall dispose of the application for interim relief submitted by the Bank on its own merits, expeditiously, and it is clarified that this Court has not expressed any opinion on this issue, as, it is for the Tribunal to consider this aspect on its own merits and in accordance with law; And

(3) Till the Tribunal decides the interim relief application, the ad interim relief granted by this Court in Special Civil Application No. 6794 of 2003, by which the impugned order of the Labour Court is stayed, is ordered to be continued. However, this continuance of the interim relief shall be subject to the final order of the Tribunal in the interim relief application. The Tribunal is free to decide the interim relief application without being influenced by the fact that this Court has already given some interim relief in favour of the petitioners.

This is only a tentative arrangement till the Tribunal decides the interim relief application on its own merits and in accordance with law.

So far as interim relief granted in Special Civil Application No.2094 of 2003 is concerned, in my view, it is not necessary to extend that interim relief, because, that relief itself has become infructuous and when this Court has already extended the interim relief granted in Special Civil Application No.6794 of 2003, by which interests of the petitioners are protected till the Tribunal decides the interim relief application, it is not necessary to extend the interim relief granted in Special Civil Applicaiton No.2094 of 2003.

At the cost of repetition, it is once again stated that the Tribunal shall decide the interim relief application as well as the main appeal on their own merits without being influenced by any orders passed by

this Court so far.

It is clarified that this order is passed in view of the consensus prevailing between the parties in these Special Civil Applications.

The Special Civil Applications are disposed of accordingly in view of the order passed hereinabove. Rule is discharged. Interim relief granted is discharged subject to the directions given in the present order.

In view of the above order, no order need be passed in Civil Application Nos. 3058 of 2003 and 3398 of 2003.

This order may be communicated to the Tribunal forthwith. For that purpose, the order packet can be handed over to the learned Advocates for the Petitioners so that they can serve the order to the Tribunal, directly.

18th June, 2003 (P.B. Majmudar, J.)

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(apj)